

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to clarify the ownership of deer,
- (b) to regulate the keeping of captive deer,
- (c) to prevent the release of deer from captivity,
- (d) to control deer that are not captive.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides that a deer that is held in captivity may be bought, sold or otherwise dealt with or disposed of. If a deer ceases to be held in captivity, all property in the deer is immediately extinguished. If a person who captures a deer that is not held in captivity, the person becomes the owner of the deer.

Clause 5 permits the regulations to specify the requirements for holding deer in captivity and creates an offence of causing or permitting a deer to be held in captivity in contravention of the regulations (maximum penalty \$5,500 for an individual and \$11,000 for a corporation).

Clause 6 creates an offence of causing or permitting the release of a deer from captivity (maximum penalty \$5,500 for an individual and \$11,000 for a corporation).

Clause 7 provides that the proposed Act does not affect the operation of certain Acts.

Part 2 Deer control orders

Clause 8 permits the Director-General of the Department of Primary Industries (the Director-General) to make a deer control order requiring that deer on specified land (other than captive deer) be eradicated or otherwise controlled by the occupier of the land. Any such order may also require that the occupier of the land notify the Director-General of the presence of deer on the land.

Clause 9 requires the Director-General to consult with a number of bodies in relation to the making of a deer control order.

Clause 10 creates an offence (maximum penalty \$5,500 for an individual and \$11,000 for a corporation) if an occupier of land (other than a public authority) to which a deer control order applies fails to comply with the order.

Clause 11 provides for when a deer control order takes effect.

Clause 12 provides for notification of the making of a deer control order.

Part 3 Compliance directions

Clause 13 permits an authorised officer to give a compliance direction to a person (other than a public authority) who holds deer in captivity for the purpose of ensuring that the person complies with the proposed Act and the regulations made under the proposed Act. An authorised officer may also give a compliance direction to an occupier of land (other than a public authority) to which a deer control order applies for the purpose of ensuring that the person complies with the order. A person who fails to comply with a compliance direction is guilty of an offence (maximum penalty \$4,400 for an individual and \$8,800 for a corporation).

Clause 14 provides that the person to whom a compliance direction is given is liable for any costs incurred in complying with the direction whether compliance is through the actions of that person, an authorised officer or a person engaged by an authorised officer.

Clause 15 requires that a compliance direction be in writing and makes provision for the ways in which a compliance direction may be given.

Clause 16 provides for a review by the Administrative Decisions Tribunal of a decision of an authorised officer to give, amend or revoke a compliance direction.

Part 4 Authorised officers

Clause 17 provides for the appointment of authorised officers by the Director-General.

Clause 18 sets out the functions of an authorised officer and specifies the circumstances in which an authorised officer is required to produce his or her identification

Clause 19 sets out the purposes for which the functions of an authorised officer under the proposed Part may be exercised.

Clause 20 provides an authorised officer with a power of entry.

Clause 21 provides for the issuing of search warrants for the purposes of the proposed Act.

Clause 22 sets out the powers that an authorised officer has on premises lawfully entered.

Clause 23 provides that before an authorised officer enters premises under the proposed Part, the Director-General must give the occupier of the premises notice of the proposed entry.

Clause 24 provides for the use of reasonable force to enter premises, but only in limited circumstances and only if authorised by the Director-General.

Clause 25 requires an authorised officer to notify the Director-General if the authorised officer uses force to enter premises or if the authorised officer enters premises without the required notice.

Clause 26 requires an authorised officer to do as little damage as possible in the exercise of a function under the proposed Part.

Clause 27 provides for the payment of compensation by the Director-General in relation to damage caused by an authorised officer who enters premises under the proposed Part.

Clause 28 enables an authorised officer to request the assistance of any police officer or other person in certain circumstances.

Clause 29 makes it an offence (maximum penalty \$5,500) to delay, hinder or obstruct an authorised officer in the exercise of the authorised officer's functions under the proposed Act.

Part 5 Miscellaneous

Clause 30 provides that in any proceedings for an offence against a provision of the proposed Act or the regulations made under the proposed Act, the onus of proving that a person had a reasonable excuse (as referred to in the provision) lies with the defendant.

Clause 31 provides for proceedings for offences in relation to officers of corporations.

Clause 32 makes provision for proceedings for an offence under the proposed Act to be dealt with summarily before a Local Court.

Clause 33 provides for penalty notices (on-the-spot fines) to be served for certain offences under the proposed Act or the regulations made under the proposed Act.

Clause 34 permits the Director-General to delegate his or her functions under the proposed Act.

Clause 35 provides for the resolution of disputes between the Minister for Primary Industries and the Minister responsible for a public authority affected by a deer control order. Any such dispute may be submitted by either Minister to the Premier for resolution.

Clause 36 provides that the proposed Act binds the Crown.

Clause 37 provides for the description of land in relation to deer control orders or compliance directions under the proposed Act.

Clause 38 enables the Governor to make regulations for the purposes of the

proposed Act.

Clause 39 is a formal provision that gives effect to the savings, transitional and other provisions set out in Schedule 1.

Clause 40 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

Clause 41 provides for the review of the proposed Act in 5 years.

Schedule 1 Savings, transitional and other provisions

Schedule 1 permits savings and transitional regulations to be made consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Acts

Schedule 2 amends the Fines Act 1996 to apply that Act to penalty notices issued under the proposed Act. The Game and Feral Animal Control Act 2002 is also amended to exempt a person from the requirement to obtain a game hunting licence under that Act if the person is hunting deer in accordance with a duty imposed on the person or the person's employer (or on any corporation of which the person is an officer) because of a deer control order or a compliance direction. Schedule 2 also amends the Law Enforcement (Powers and Responsibilities) Act 2002 to permit authorised officers to obtain search warrants for the purposes of the proposed Act.